IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3983 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE A.L.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAJU RAMKISHOR AVASTHI

Versus

STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 3983 of 2004

MR BM MANGUKIYA for Petitioner No. 1

MS BELA A PRAJAPATI for Petitioner No. 1

MR ND GOHIL Ld APP for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE A.L.DAVE

Date of decision: 04/05/2004

ORAL JUDGEMENT

1. Rule. Learned APP Mr.N.D.Gohil waives service of notice of rule on behalf of respondent State.

2. Heard learned advocate Mr.B.M.Mangukia for the applicant and learned APP Mr.N.D.Gohil for the respondent - State.

3. Learned advocate Mr.Mangukia submitted that though this is a successive bail application, the same deservers consideration on two counts by way of change of circumstance, (i) there has been delay and (ii) co-accused Mr.Kalpeshbhai Kirtidev Trivedi, who is similarly situated, has been enlarged on bail by this Court.

4. Learned APP Mr.Gohil submitted that this is a successive bail application. He submitted that affidavits were very much available of the accused and he should have indicated the same on earlier occasion. He, however, does not dispute that the affidavits have been tendered by the accused to the Investigating Officer during the course of interrogation.

5. Having regard to contentions raised before this Court, the change in circumstance of co-accused having been enlarged on bail comes to rescue of the applicant and on count of parity, the application deserves to be allowed. The application is allowed on ground of parity.

6. The applicant is ordered to be released on bail in connection with Khadia Police Station I C.R.No.73 of 2003 on his executing a personal bond of Rs.1,00,000/- (Rupees One lac only) with two sureties of Rs.50,000/- each to the satisfaction of the lower Court and subject to the following conditions:

(a) the applicant shall not influence the witnesses or tamper with any documents;

(b) the applicant shall not leave the Gujarat State without prior permission of the Trial Court;

(c) the applicant shall mark his presence with concerned Police Station, on 1st Sunday of every month between 9 a.m. to 2.00 p.m.;

(d) the applicant shall surrender his passport, if he

is holding it, to the Trial Court;

(e) at the time of execution of the bonds, the applicant shall furnish his address to the investigating officer and the court concerned and shall not change his residence till the final disposal of the case or till further orders in that regard;

(f) the applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the fact of the case so as to dissuade him from disclosing such facts to the court or to any police officer;

(g) the applicant shall not do any act prejudicial to the interest of the Prosecution.

7. Rule is made absolute. Direct Service is permitted.

(A.L. Dave, J.)

(vipul)